UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
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October 2, 2024

IN RESPONSE, PLEASE REFER TO COMPLAINT 03-22-1010

Dr. Natalie A. McCracken
Superintendent
Norwin School District
281 McMahon Drive
North Huntington, PA 15642
By Email Only: nmccracken@norwinsd.org

Dear Superintendent McCracken:

The U.S. Department of Education (the Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed against the Norwin School District (the District). The Complainant, [redacted content] alleged that the District discriminated against students at Norwin High School (the High School) on the basis of race. Specifically, the Complainant alleged that the District permitted a racially hostile environment to exist when it allowed students to wear Confederate flag attire to the High School during a spirit day event in October 2021.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin in any program or activity receiving Federal financial assistance from the Department. Because the District receives Federal financial assistance from the Department, OCR has jurisdiction pursuant to Title VI.

In reaching a determination, OCR reviewed documentation provided by the Complainant and the District, including District policies and procedures, and documents pertaining to complaints of racial harassment which the District received from January 2021 through November 2021. OCR also interviewed the Complainant and District staff, including the former superintendent, who was in the position during the time period under review in this investigation (Superintendent), Assistant Superintendent, a former District Safety Coordinator, and Middle School and High School administrators and teachers. After carefully considering all of the information obtained during the investigation, OCR determined that despite having notice of a racially hostile environment at the District, the District did not take prompt and effective steps to eliminate the racially hostile environment and remedy the effects of the harassment thereby failing to meet its Title VI obligations. To address the violations identified by OCR, the District signed the enclosed Resolution Agreement. OCR's findings and conclusions are discussed below.

FACTUAL SUMMARY

The District is located in North Huntingdon, Pennsylvania, outside of Pittsburgh, Pennsylvania. According to the 2020-2021 Civil Rights Data Collection (CRDC), total enrollment at the District was 5,109, with 1,627 students enrolled at the High School, and 1.4% of the students were Black and 92.9% were white. At the Middle School, there were 838 students enrolled during the 2020-2021 school year, and fewer than 1% of the students were Black and 91.2% were white.

District's Policies and Procedures

The 2021-2022 Student Handbook identified "Dress Code violations" as a Level II disciplinary offense. A Level II offense is described in the Student Handbook as "Misbehavior whose frequency or seriousness tends to disrupt the learning climate of the school or school-sponsored activity." Intimidation/Harassment (verbal, written, physical and/or sexual) is also defined as a Level II offense in the Student Handbook.

The Student Handbook also included a section titled "Student Dress," which states that a student's personal appearance "should not disrupt the educational process, call undue attention to the individual, violate federal, state, or local health or obscenity laws, or affect the welfare of the student or his/her classmate." It also stated that building principals would determine whether student dress was appropriate and that students inappropriately attired would be required to obtain a change of clothing before being permitted to return to class.

The District also provided OCR with the 2021-2022 Student Rights, Responsibilities and Discipline, which stated that students "are expected to exercise good judgment in the selection of appropriate attire for school. They should dress in such a manner as not to cause actual disruption of the educational process, create health or safety hazards, call undue attention to themselves, or violate federal, state or local obscenity laws."

The District also has a Social Media Policy (Policy 802.1) which was adopted in September 2011. Policy 802.1 states in relevant part: "Users are responsible for their own behavior when communicating by use of social media. Users will be held accountable for the content of the communications stated/posted on social media locations where such communications, materially disrupt school operations and are not otherwise-protected speech."

The District also has a Social Expression/Distribution and Posting of Materials Policy (Policy 220), which was adopted in February 2020. Policy 220 states in relevant part: "Students have the right to express themselves unless such expression is likely to or does materially or substantially interfere with the educational process…" Further, Policy 220 states that student expression that occurs "off-campus or after hours… is governed by this policy if the student expression involved constitutes unprotected expression… and provided the off-campus or after hours expression does or is likely to materially or substantially interfere with the educational process…"

Racial Harassment Reported to the District and the District's Response

The Complainant filed this complaint regarding an incident that occurred at the High School on October 11, 2021, in which students wore Confederate flag attire to the High School as part of a

homecoming week, spirit themed event on Columbus Day/Indigenous People's Day titled 'Merica Monday. As part of OCR's investigation, OCR requested all reports of racial harassment made to the District from [redacted content]. Below is a chronological summary of each incident and the District's response, including the October 11 incident that was the basis for this complaint.

[Redacted content] Social Media Incident

The District provided OCR with an email dated [redacted content], from a [redacted content] student who is Black (Student 4) to [redacted content] staff, including the [redacted content] Principal. Student 4 wrote: "I just wanted to share with you a little piece of the disturbing racism that goes on in Norwin very often, that goes unnoticed. Things like this affect me often. This video just lets you see a little part of what it is like for a black person in our majority white school. She is a [redacted content] student enrolled in Norwin [redacted content]." The District did not provide OCR with a copy of the video recording, but acknowledged to OCR that it was a video posted by a white [redacted content] student (Student 5) on her social media account that included racially offensive language. The District told OCR that the video was made on a personal account outside of school hours.

[Redacted sentences] the [redacted content] Principal met with Student 5's parents. The District told OCR that Student 5 was not disciplined, as the [redated content] Principal determined that there was no evidence that Student 5's video caused a "material disruption" to the learning environment at the School. The email documentation shows that the [redacted content] Principal responded to Student 4, stating that the District conducted an investigation, but did not provide any additional information or solicit any other information from Student 4 about the school environment. The [redacted content] Principal also told OCR that he personally spoke with the Student 4's mother. District staff interviewed by OCR acknowledged that no other interventions were provided to Student 4 or other students to address the potential impact of the video.

[Redacted content] Social Media Exchange

The District provided OCR with a copy of a report made on [redacted content] to Safe2Say Something PA, which is an online anonymous reporting system through the Commonwealth of Pennsylvania for students, and others, to submit information about safety concerns. The report stated that several District [redacted content] students were invited to a group chat that turned into "a stream of racist hate speech." The Safe2Say Something report also included sixteen screenshots of racist messages posted within the group chat, including messages promoting the hanging of Black people, rubbing Black people with napalm, and setting them on fire, the voluminous use of racial epithets, references to the KKK, and freeing Derek Chauvin.

The District told OCR that the report was reviewed by the [redacted content] Principal, the Assistant [redacted content] Principal, and the former Safety Coordinator. The [redacted content] Principal referred the matter to the local police department for investigation. The District told OCR that it believed that members of the police department met with the parents of the students identified in the complaint. However, the District does not know whether any criminal charges were filed.

The District told OCR that, because the incident involved off-campus speech, prior to the commencement of the [redacted content] school year, and because the Safe2Say Something report was investigated by the local police, the District did not independently investigate the incident, discipline any of the students identified in the report, or otherwise respond to the report. During an interview with the [redacted content] Principal, he stated he believed that the incident constituted racial harassment but that he did not believe that this incident created a racially hostile environment for students at the [redacted content] School. The [redacted content] Principal did not provide an explanation for his belief. However, he acknowledged that [redacted content] school staff did not investigate the incident because it happened outside of school hours on private social media accounts. District staff interviewed by OCR acknowledged that no steps were taken to address the potential effects of the communications on any student members in the group chat.

[Redacted content]"Go pick cotton" Incident

On [redacted content], the parent of a Black [redacted content] student (Student 6) emailed the [redacted content] teacher to report that someone in the [redacted content] class (Student 7) told Student 6 to "go pick cotton." The [redacted content] teacher forwarded the email to the [redacted content] Principal, and also spoke with Student 6 that day about the incident. The [redacted content] Principal emailed the [redacted content] teacher to inquire if he heard the exchange, which the [redacted content] teacher denied. The [redacted content] Principal also reviewed surveillance video of the exchange and spoke with Student 7. The District told OCR that the [redacted content] Principal confirmed that Student 7 did make the alleged comment and Student 7 was assigned a [redacted content] suspension for "Inappropriate Communication." Additionally, the [redacted content] Principal contacted Student 7's parents by telephone and letter. The documentation provided by the District does not include information about what the Principal relayed to Student 7's parents.

During an interview, the [redacted content] Principal told OCR that he believed this incident created a racially hostile environment for Student 6. One of the [redacted content] Assistant Principals interviewed by OCR concurred that the conduct created a hostile environment for Student 6, as did the Assistant Superintendent. However, other than speaking with Student 6 and their parent, District staff interviewed by OCR acknowledged that no other steps were taken to address the impact of this incident on Student 6 or others who may have overheard the comment.

[Redacted content] Incident Involving the [redacted content] Team

The District told OCR that on [redacted content], it received a verbal tip that there may be a fight in the [redacted content] involving Black members of the [redacted content] team and other white students from a local [redacted content] school. The witness statements obtained by the District reflect that the [redacted content] team had a group chat in Snapchat, which included a former member of the [redacted content] team, who is white and was also a [redacted content] school student (Student 2). According to the witness statements, Student 2 added friends to the group chat from the [redacted content] school who do not play [redacted content], and Student 2 and the other students made racially offensive statements in the group chat. Student 2 also added their father to the group chat, who made threats and used racial epithets in the group chat.

After receiving the tip, one of the [redacted content] Assistant Principals immediately went to the [redacted content] to investigate and observed approximately 15-20 students from the [redacted content] school sitting/standing around a [redacted content] table. Shortly thereafter, a group of approximately 6 or 7 [redacted content] players entered the [redacted content]. One of the [redacted content] players (Student 8) began to approach the table and the [redacted content] Assistant Principal intervened and asked Student 8 if there was a problem. According to the District, Student 8 told the [redacted content] Assistant Principal that Student 8 and Student 8's friends wanted to discuss the racially insensitive statements the [redacted content] students made in a group chat towards the Black members of the [redacted content] team.

The [redacted content] Assistant Principal dispersed the group and instructed Student 8 to come to the office and file a complaint. Student 8 showed the [redacted content] Assistant Principal screenshots of the group chat in which Student 2, Student 2's father, and other white students from the [redacted content] school used racial epithets and threatened the Black members of the [redacted content] team. The [redacted content] Assistant Principal was able to identify several [redacted content] students involved in the chat, including Student 1, Student 2, and Student 3, who were also involved in subsequent incidents, described in more detail below. The [redacted content] Assistant Principal also learned that Student 2's father was added to the group chat and posted racially derogatory comments in the chat.

Once the [redacted content] Assistant Principal determined that an adult was involved in the group chat, he immediately referred the matter to the local police department for investigation. The District told OCR that the police investigated the matter, including by contacting Student 2's father to discuss his participation in the communications. The District does not know whether any criminal charges were filed against any individual. The District also told OCR that it received a telephone call from Student 8's father stating that he and his family decided not to press charges against any of the individuals involved as he believed that the matter had been satisfactorily addressed by the local police. The District told OCR that it therefore conducted no further investigation and considered the matter closed. There is no evidence that the District made any further attempt to determine the impact the incident may have had on the students in the group chat, and if so, whether any additional measures were needed to address that impact.

The [redacted content] Assistant Principal told OCR that there were no further incidents involving the [redacted content] team and that the [redacted content] coach talked through the incident with several [redacted content] players, and he was assured by them that everything was fine. The [redacted content] Assistant Principal followed up with Student 8 who assured the [redacted content] Assistant Principal that everything was ok and there was no recurrence. The [redacted content] Assistant Principal confirmed that no other measures were taken for any members of the [redacted content] team who may have been impacted by the incident. District staff did not speak to any of the [redacted content] school students involved in the chat. The [redacted content] Assistant Principal also told OCR that he believed that this incident created a racially hostile environment, as did the former Superintendent. The [redacted content] Assistant Principal explained, however, that no students were disciplined because the incident occurred outside of school on Snapchat, and the incident was referred to the police.

October 11, 2021 "'Merica Monday"

October 11 to 15, 2021 was homecoming week at the High School. The Student Council developed, and the High School Principal approved, theme days for each day of homecoming week. The theme for October 11, which was also Columbus Day/Indigenous People's Day, was titled "'Merica Monday." The High School's *Student Daily Bulletin* invited students to "Kick off spirit week by wearing your red, white, and blue!!" for "'Merica Monday."

The Complainant told OCR that [redacted content] community members had concerns about the theme and date of the "'Merica Monday" event and that they conveyed those concerns to the District prior to October 11. [Redacted sentence]. [Redacted content] concerns regarding the event and its date were brought to the District's attention prior to the day of the event, but that the District proceeded with the theme day. In an interview with OCR, however, the [redacted content] Principal denied that any concerns about the "'Merica Monday" theme were raised with administration prior to October 11.

On the morning of October 11, two white students (Student 1 and Student 2) wore Confederate flag attire to the High School. Student 1 and 2 had posted racial epithets in the group chat with the [redacted content] team in [redacted content], as described above.

Student 1 and Student 2 spent the morning in the library for study hall until their first academic class began at 10:33 a.m. That morning, photos of Student 1 and Student 2 wearing Confederate flag attire began circulating on social media. Starting at 9:56 a.m., numerous individuals began to contact the District to voice their concerns about what Student 1 and Student 2 were wearing. Specifically, a former student, current student, two teachers and several community members emailed District administrators to complain about the attire, explain that it had racist connotations and were concerned for the impact on Black students at the High School. For example, a teacher at the School emailed the High School Principal expressing her concern that students were permitted to wear Confederate flag attire, and stated that she was worried how "minority students feel seeing this flaunted as acceptable." Another teacher wrote an email to District administrators that morning objecting to the attire worn by Student 1 and Student 2, stating, "we have minority students whom we need to make feel just as comfortable as every other student." In many of the emails, students, parents, and community members addressed prior incidents that occurred at the District in [redacted content], as described above. The District told OCR, however, that there was no correlation between these prior incidents and the events related to "'Merica Monday."

At 11:17 a.m., Student 1 and Student 2 were summoned to the office regarding their attire. Student 1 and Student 2 received a verbal warning for a dress code violation and administrators asked them to change their attire before returning to class, which they did. OCR's investigation was not able to confirm the specific provision of the dress code which school staff informed the two students they violated. However, school staff interviewed by OCR explained that, generally, any attire that caused a disruption to the school environment would be considered a dress code violation.

The District continued to receive voluminous email complaints from parents, students, former students and community members throughout the day and evening regarding the Confederate

flag attire Student 1 and Student 2 had worn to school that morning. Many of the emails included photos of Student 1 and Student 2 wearing Confederate flag attire that were circulating on social media. Several parents wrote to the High School Principal questioning whether the High School Principal understood the controversy regarding the use of the term "'Merica Monday" and questioning whether students were aware of the racial context and insensitivity of wearing Confederate flag attire. These parents also expressed concern for the impact on the small population of families of color at the High School. Community members also emailed District staff expressing concern and disappointment regarding the "blatant racism" allowed in the High school, and its impact on minority students. In one instance, a High School student emailed the High School Principal and Assistant Principals to discuss how the incident made them feel as a person of a different race and expressed concern regarding the lack of immediate action by the District.

In another email that day, a social justice non-profit organization emailed various District administrators a photo of Student 1 and Student 2 wearing Confederate flag attire at the High School with a caption on the photo titled "kool kids klub," that had been circulating on social media. According to Urban Dictionary, kool kids klub references the acronym "KKK," and is often used to disguise Ku Klux Klan groups on games or apps. The organization wrote that it had been contacted by students and parents in the District who wanted help in addressing the racism they experienced in the District, which had been made more apparent by the events of October 11.

Another community member emailed District administrators and included a screenshot of a social media post by Student 2 showing him and Student 1 wearing Confederate attire at the High School, with the following caption written by Student 2:

> Ok listen here Mother fuckers. Everybody that gets offended from American flag and confederate flag need to stop wearing fucking dog callers [sic] before I take y'all on a walk. And if you think any of those flags are racist we have our own opinions and there's different meanings about the confederate flag like that flag is the first us flag and if you get offended by the flag then leave America. Like if you guys have a prob with the flag go down south and call a white person racist and see what happens.

Late in the afternoon of October 11, the Superintendent emailed the School Board members to alert them that there could be some "angry parents" attending the board meeting that evening. The email informed the School Board that there had been a theme day at the High School that day in which students were encouraged to wear red, white, and blue. The Superintendent emphasized that "two students (out of 1,629 high school students) wore attire that depicted the confederate flag" and described the incident as a dress code violation. His email also stated that, according to the Principals, Student 1 and Student 2 "were not trying to show disrespect, they were just wearing red, white, and blue attire for spirit week," that "one of the two students did not even know what the confederate flag represented," and that both students were respectful and that they "now understand the greater context of the confederate flag, and how it can be considered offensive to others." The Superintendent concluded the email by stating that, "unfortunately, I have been flooded with angry emails, phone calls, and news media demands as

a result of this situation – which is clearly being taken out of context." During OCR's interview with the High School Principal, he agreed that Student 1 and Student 2 were not trying to show disrespect, and said that he met with Student 1's parents to discuss how Student 1's attire "can be extremely offensive to individuals and the community." The High School Principal also spoke with Student 2's parents, but according to the High School Principal, "the nature of his response was different because he [Student 2] did not know what it even meant." The Superintendent told OCR that the High School Principal sent him a summary indicating that Student 1 and Student 2 believed that they were wearing something that they thought was red, white, and blue, and that Student 1 and Student 2 were unaware of the meaning of the Confederate flag.

Later that evening, the District disseminated a press release that referred to the spirit day theme as wearing "red, white and blue to show their support for our country." The press release acknowledged that two students came to school that day "wearing attire that many in our community have found offensive" and that they were called into the office and asked to change into different attire. The press release described the incident as a dress code violation. During an interview with OCR, the Superintendent explained that the press release did not refer to racially offensive conduct because he received correspondence from the community that did not find the incident to be racially offensive or racially motivated, and that there were opposing viewpoints, some of which were very aggressive and vocal. Other than a couple of emails described below, however, the District did not produce documentation showing these community responses to District administrators. OCR further notes that the Superintendent told OCR that he researched the history of the term "'Merica" after the October 11 incident, and then shared with the Assistant Superintendent that he did not want that term ever used again, but did not tell OCR why he did not want the term used again. None of the District administrators interviewed by OCR considered the October 11 incident to be racial harassment or as contributing to a racially hostile environment. Specifically, the High School Principal told OCR that he did not believe that the October 11 incident was an incident of racial harassment, but rather, an isolated dress code violation. One of the High School Assistant Principals told OCR that he did not believe this was an incident of racial harassment, although he acknowledged that the incident likely bothered students. The Assistant Superintendent told OCR that, at the time, he did not believe that this incident created a hostile environment for students.

There is no evidence that the District attempted to determine whether the attire worn by Student 1 and Student 2 to the High School on October 11 created a racially hostile environment or took any steps to remedy the effects of the incident on students and the larger community.

Incidents Occurring After "'Merica Monday"

On [redacted content], Student 3 – who is white and used racial epithets in the [redacted content] group chat with the [redacted content] players – received a [redacted content] suspension for writing the word "niger" [sic] on an online google classroom homework assignment and a Snapchat post. The documentation provided by the District suggests that the Snapchat post showing Student 3 standing on a table in the library with the word "Niger" [sic] on it was submitted by a community member in response to the October 11 "'Merica Monday" incident. The Assistant Principal explained that Student 3 was disciplined for the homework incident, but not disciplined for the Snapchat post, because "it happened out of school."

Further, although the Superintendent wrote in his October 11 email to the School Board that the Principals informed him that Student 1 and Student 2 "were not trying to show disrespect," that they "did not even know what the confederate flag represented," and that the students "now understand the greater context of the confederate flag, and how it can be considered offensive to others," both Student 1 and Student 2 engaged in similar conduct subsequent to October 11. Specifically, on [redacted content], Student 2 was given an [redacted content] for a dress code violation for wearing a hat that said, "Kiss my rebel ass." Similarly, on [redacted content], Student 1 was given a [redacted content] because he drew a Confederate flag on his arm.

The District also provided OCR with email documentation showing that on [redacted content], a parent reported that a student was wearing a Black Lives Matter t-shirt and requested that the shirt be removed because her son found it to be racially intimidating. The [redacted content] Principal responded by stating he was working to identify the student wearing the t-shirt. Similarly, on [redacted content], a community member contacted the District to request that Black Lives Matter attire be banned, "just as they banned the confederate flag t-shirt." The District did not provide OCR with any documentation showing its response to these reports.

LEGAL STANDARD AND SUMMARY OF LEGAL CONCLUSIONS

Legal Standard

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies. The existence of a hostile environment that is created, encouraged, accepted, tolerated, or left uncorrected by a recipient constitutes discrimination on the basis of race in violation of Title VI.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on race existed; (2) the recipient had actual or constructive notice of a hostile environment based on race; and (3) the recipient failed to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome race-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity. Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment need not be based on the complainant's or victim's race so long as it is motivated by race (e.g., it might be based on the race of a friend or associate of the victim). The harassment must in most cases consist of more than casual or isolated incidents to establish a Title VI violation. Whether harassing conduct creates a hostile environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the race-based harassment, as well as the identity, number, age, and relationships of the persons involved. If OCR determines that the harassment was sufficiently severe that it would have adversely affected a reasonable person, of the same age and race as the victim, under similar circumstances, from participating in or

enjoying some aspect of the recipient's education program or activity, OCR will find that a hostile environment existed.

A school may be found to have violated Title VI if it has failed to correct a hostile environment based on harassment of which it has actual or constructive notice. A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

Once a recipient has notice of a hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely, and effective. The appropriate response to a hostile environment based on race must be tailored to redress fully the specific problems experienced because of the harassment.

The regulation implementing Title VI, at 34 C.F.R. § 100.6(b), requires recipients to collect, maintain, and provide to OCR such records, including school discipline information and investigation records, that will enable OCR to ascertain whether the District's response to student harassment complies with the nondiscrimination requirements of Title VI. This includes accurate and complete student discipline data, including suspensions or other disciplinary actions, and investigation records, including records of communications with students' parents concerning harassment-related incidents and documentation related to investigations into student harassment.

Analysis

OCR's investigation revealed that the District received repeated notice of conduct that, individually and cumulatively, could create and perpetuate a racially hostile environment. Specifically, the evidence shows that the District first received notice of race-based harassment in [redacted content] when a student informed school administration that a [redacted content] student was posting racially offensive material on their social media account. OCR's investigation established that the racial harassment was pervasive, as reflected through repeated incidents that were reported to the District the following school year. However, although the District was made aware of severe and pervasive incidents of racial harassment, the District failed to evaluate whether the incidents created a racially hostile environment for students, failed to recognize some incidents as race-based harassment, minimized the conduct including in a press release as well as in correspondence to the School Board and with parents, and generally failed to take action reasonably designed to redress the racially hostile environment or mitigate its effects on students and the larger community. The evidence suggests that the District's failure to take reasonable steps to eliminate the hostile environment was rooted – in part – in its misunderstanding of its obligation to consider whether incidents that occur on social media, even if off campus, create or contribute to a racially hostile environments for students. The evidence reflects that the result, predictably, was that a racially hostile environment persisted and escalated for students without effective or prompt response from the District, in violation of Title VI.

The District failed to take any action reasonably designed to redress the racially hostile environment or mitigate the effects of the harassment that began as early as [redacted content]. Specifically, in response to evidence that Student 5 posted racially offensive material on their social media account, the District did not take any steps to address with Student 5 their racially offensive video since, the District determined, the video did not cause a "material disruption." The District's decision ignores the evidence of a potentially hostile environment brought to it by Student 4, who reported the video and explained how it impacted them as a Black student in a majority white school. Further, other than speaking with Student 4's mother, the District took no other action to address the impact of the statements in the video on Student 4 or the potential impact on other students.

Similarly, in response to the report of [redacted content] students engaging in racially offensive postings in a social media exchange in [redacted content], the District did not investigate or otherwise respond and, instead, referred the matter to the local police because the incident involved off-campus speech prior to the start of the school year. The District failed to meet its Title VI obligations by not taking any steps to address the racially hostile environment created by the incident for students in the school setting or mitigate its effects on students. In contrast, the evidence shows that the District conducted an investigation of the [redacted content] "go pick cotton" incident because it occurred on school grounds and determined that a student made the statement. However, while District staff spoke with Student 6 and their parent, once again, the District took no other steps to address the impact of this incident on Student 6 or others who may have overheard the comment.

This pattern continued with the [redacted content] incident involving racial epithets directed towards Black members of the [redacted content] team on a Snapchat group text. Despite the severity of the racially offensive posts, there is no evidence that the District investigated the incident or made any attempt to determine the impact the incident may have had on the students in the group chat and the school environment, and if so, whether any additional measures were needed to address that impact.

The District's failure to take action reasonably designed to redress the racially hostile environment, or mitigate its effects, continued regarding the October 11 "'Merica Monday" incident in which Student 1 and Student 2 – two students who had already engaged in racially offensive conduct in the [redacted content] group chat early in October 2021 – wore Confederate flag attire to the High School. The District told OCR that there was no correlation between the prior incidents, described above, and the "'Merica Monday" incident, which OCR does not find credible given the similarity of the conduct and the repeat offenders involved. Similarly, OCR does not find credible the District's assertion that Student 1 and Student 2 were unaware of the offensive nature of their conduct on October 11, as both students engaged in prior racially harassing conduct, and again after the October 11 incident. Regardless of the students' intent, the District had notice that an objectively and subjectively hostile environment based on race was present as a result of that conduct. Had the District reasonably addressed the racially offensive conduct of Student 1 and Student 2 when it first started in the [redacted content] group chat in early [redacted content], perhaps the October 11 "'Merica Monday" incident, and the subsequent [redacted content] misconduct could have been avoided. Further, despite the clear evidence of a severe and pervasive racially hostile environment presented to the District in the form of voluminous student, former student, parent, teacher, and community emails, none of the District

administrators interviewed by OCR considered the October 11 incident to be racial harassment or as contributing to a racially hostile environment. Worse, the Superintendent minimized the severity of the conduct in an email to School Board members, and in a press release that same evening. Because the District failed to recognize the existence of a racially hostile environment, it once again failed to take any reasonable steps to eliminate the hostile environment and redress its effects on the High School community.

In conclusion, because the District failed to take steps reasonably calculated to stop and prevent the harassment or redress its effects, OCR concludes that the District violated Title VI.

CONCLUSION

On September 30, 2024, the District signed a Resolution Agreement (the Agreement) with OCR to resolve the violations of Title VI identified in OCR's investigation. The Agreement requires the District to:

- Review the incidents that occurred at the Middle and High School during the 2021-2022 school year to determine what steps are necessary to ensure that the hostile environment does not persist, and what steps must be taken to redress the hostile environment for students, including remedial services for any student impacted by the hostile environment;
- Provide all Middle and High School administrators, faculty, and staff with Title VI training on responding to reports of race-based harassment and maintaining appropriate records of the response, including coding incidents as race-based harassment and survey staff following the training to assess the effectiveness of the training;
- Provide a mandatory age-appropriate orientation session for all Middle and High School students on the District's policies and procedures prohibiting race discrimination and harassment;
- Conduct a climate survey at the Middle and High School, and provide OCR with a report summarizing the results, and a description of any actions that the District will take in response to the survey results;
- Post a notice on its website and in the 2024-2025 back-to-school communications regarding how to file a complaint, and conduct a prompt investigation of any complaints filed;
- Conduct an audit of all complaints of racial harassment at the Middle and High School during the 2021-2022, 2022-2023, and 2023-2024 school years to ensure that the District is responding to incidents of racial harassment consistent with the requirements of Title VI; and
- Retain or designate a consultant with expertise on the issue of harassment of students on the basis of race, color, and national origin to work with the Middle and High School to assist in the development and delivery of training and a climate survey.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly

authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact me at [redacted content], or Michael Wesley, the Senior Equal Opportunity Specialist assigned to this complaint, at [redacted content].

Sincerely,

/s/

Christina M. Haviland
Supervisory Attorney

Enclosure
cc: Joseph W. Cavrich, Esq. - Andrews & Price LLC (JCavrich@andrewsandprice.com)